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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,232	09/10/2003	Roger C. Palmer	025636-0111	3485
7590		07/01/2004	EXAMINER	
James A. Wilke Foley & Lardner Suite 3800 777 East Wisconsin Avenue Milwaukee, WI 53202-5306		BOLES, DEREK		
		ART UNIT	PAPER NUMBER	
		3749		
DATE MAILED: 07/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,232

Applicant(s)

PALMER ET AL.

Examiner

Derek S. Boles

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/10/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Regarding claims 1 and 14, Keddy (4,6345,339) discloses all of the limitations of the claim except for the mesh grill configured with openings such that the ratio of opening area to grill material area is more than forty percent. However, since the applicant has failed to establish any criticality or synergistic results which are derived from the recited configurations, these limitations are considered a matter of obvious design choice. Thus, the applicant's design configurations would have been an obvious improvement to one of ordinary skill in the art with regard to the apparatus disclosed in Keddy. See fig. 1, **82** and **84**.

Claim(s) 2-4, 8, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keddy in view of Harris et al. (5,046,406). Keddy discloses all of the limitations of the claim(s) except for plurality of vertical louvers. Harris et al. discloses the presence of a plurality of vertical louvers. See abstract. Hence, one skilled in the art would find it obvious to modify the system of Keddy to include the plurality of vertical louvers of Harris et al. for the purpose of better airflow directing. Regarding claims 3, 4, 8, and 16, see **124**.

Claim(s) 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keddy in view of Harris et al. and in further view of Bang et al. (5,850,742). Keddy in view of Harris et al. discloses all of the limitations of the claim(s) except for the apparatus being coupled to an

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electric motor. Bang et al. discloses the presence of an apparatus being coupled to an electric motor. See col. 5, lines 20-40 and 4 and 5. Hence, one skilled in the art would find it obvious to modify the system of Keddy in view of Harris et al. to include a the apparatus being coupled to an electric motor of Bang et al. for the purpose of improved automation.

Claim(s) 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keddy in view of Harris et al. and in further view of Vagedes (5,293,920). Keddy in view of Harris et al. discloses all of the limitations of the claim(s) except for an apparatus being configured to extend through an opening in the mesh grill. Vagedes discloses the presence of an apparatus being configured to extend through an opening in the mesh grill. See fig. 3. Hence, one skilled in the art would find it obvious to modify the system of Keddy in view of Harris et al. to include an apparatus being configured to extend through an opening in the mesh grill of Vagedes for the purpose of space conservation.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keddy. It is well-known in the art of HVAC to design a screen with lateral members having a uniform width. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the features of a screen with lateral members having a uniform width into the system of Keddy for the purpose of cost reduction.

Regarding claims 9, 10, 19 and 20, a mere change in shape is not a patentable distinction over the prior art. See *In re Dailey*, 149 USPQ 47 (CCPA 1976).


Regarding claims 11 and 17, the coloring of the mesh and or louvers are done solely for a decorative effect and therefore are given no patentable weight in a utility patent application.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The provided references are representative of the state of the art that is applicable to the applicant's invention. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Boles at (703) 308-1804 or fax number (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The Supervisory Primary Examiner for Art Unit 3749 is Ira Lazarus who can be reached at (703) 308-1935.

D.S.B.


DEREK S. BOLES
PRIMARY EXAMINER
GROUP 3700

6/17/04